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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 21.9.2006.

Charan Dass .... Appellant.

vs

Tarsem Lal and others .. Respondents.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Vipen K.Bali,Advocate,for the appellant.

Kiran Anand Lall, J.

Houses of the appellant and respondents are adjacent to each other, and nothing intervenes between the two. Respondent no.1 filed a suit, seeking permanent injunction to restrain the appellant from demolishing and tempering with the common wall which joins their houses. The appellant contested it, denying his claim of jointness of wall, and pleading that the disputed wall is, infact, exclusively owned and possessed by him.

After issues were framed on the point as to whether the disputed wall is common of the parties and also regarding the preliminary objections taken in the written statement, parties led evidence in support of their respective contentions. On conclusion of trial, the trial court found merit in the case of respondent no.1, held the wall to be joint of the parties, and restrained the appellant from demolishing or tempering with it. The first appellate court also upheld this verdict.

Feeling dissatisfied with the impugned judgments and decrees of the two courts, the appellant came up in second appeal to this court.

However, when the appeal has been taken up for hearing, learned counsel for the appellant has fairly stated that no substantial

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question of law is involved in this regular second appeal.

There is a concurrent finding of both the courts that the disputed wall intervenes the houses of the parties and is their common. This finding is a pure finding of fact, which cannot be gone into in a regular second appeal.

Since no substantial question of law arises in this appeal, there is no option but to dismiss the appeal, in limine, and it is so ordered.

21.9.2006. (Kiran Anand Lall)
vs. Judge.